IN THE HIGH COURT OF JUDICATURE AT BOMBAY

O.O.C.J.

SUMMONS FOR JUDGMENT NO. 914 OF 2004

IN

SUMMARY SUIT NO. 2628 OF 2004

Shobha Motwani .. Plaintiff.

vs.

Electrex (India) & Ors. .. Defendants.

Ms. B.S. Chandnani for plaintiff.

Mr. S. Nagvadria for defendant no. 4.

Mr. P.C. Kansara for defendant no. 1.

CORAM : S.U. KAMDAR, J.

DATE : 10TH OCTOBER, 2005.

P.C.

. In so far as the summons for judgment against the defendant no. 1 is concerned, the learned advocate appearing for the plaintiff seeks to withdraw the summons for judgment with liberty to take out the fresh summons for judgement after the BIFR proceedings are over. The defendant no. 1 and their advocates are directed to keep the plaintiff as well as the office of this Court informed of the status of the case every six months and in an event if there is any final order passed, the same to be

communicated within a period of two weeks from passing of such order. Office to act in pursuance of such order accordingly.

2. As far as the defendant no. 4 is concerned, the learned advocate appearing for the plaintiff states that he is sued in his capacity as a guarantor as a partner of defendant no. 2. However, the learned counsel for the defendant no. 4 contends that he is not the partner of the defendant no. 2. On the perusal of the bill of exchange it is clear that the 2nd defendant has accepted the bill of exchange as the partner of the 2nd defendant and, therefore, the aforesaid contention raised at the belated stage has no merit. The next contention raised is that there is no presentation of the bill of exchange. The aforesaid contention is without merit. The bill of exchange has already been executed by the defendant no. 4 and the defendant no. 4 is aware about the payment to be made. In any event, notice of dishonour is waived as mentioned on the bill of exchange itself. In that view of the matter, there is no merit in the said contention also. However, with a view to give an opportunity to the defendant no. 4 to defend, I direct the defendant no. 4 to deposit Rs. 70,000/- in this Court within the period of four weeks from today. The amount if so deposited, the Prothonotary and Senior Master is directed to deposit the same in

a fixed deposit with any nationalised bank initially for a period of one year and renew the same from time to time till further orders from this Court.

2. Suit transferred to the list of Commercial Causes. Written Statement or points of defence to be filed four weeks from the date of deposit. Affidavits list of documents to be filed within four weeks thereafter. Inspection within four weeks thereafter. Suit to be on Board of the learned Judge taking Commercial Causes.